

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF APRIL 20, 2005**

REGULAR MEETING

9:00 A.M.

APRIL 20, 2005

PRESENT:

COMMISSIONERS:	Paul Biane, Chairman	Dennis Hansberger
	Bob Colven, Vice Chairman	Mark Nuaimi
	Kimberly Cox	Richard P. Pearson
	James V. Curatalo, Alternate	Diane Williams
	Josie Gonzales, Alternate	

STAFF:

Kathleen Rollings-McDonald, Executive Officer
Clark H. Alsop, Legal Counsel
Jeffrey Goldfarb, Special Legal Counsel
Samuel Martinez, LAFCO Analyst
Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS:

Paul J. Luellig, Jr., Alternate
A.R. "Tony" Sedano, Alternate

REGULAR SESSION - CALL TO ORDER - 9:07 A.M.

Chairman Biane calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Biane requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

MINUTES FOR REGULAR MEETING OF MARCH 16, 2005 - APPROVED - MINUTES FOR WORKSHOP SESSION OF MARCH 31, 2005, CONTINUED TO MAY 18, 2005

Executive Officer Kathleen Rollings-McDonald states that the minutes for the March 31, 2005 Workshop Session have not yet been prepared. She says the staff recommendation is that approval of the March 31 minutes be deferred to the May 18 hearing and that the March 16 minutes be approved.

Chairman Biane calls for any corrections, additions, or deletions to the March 16 minutes. There are none. Commissioner Williams moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson, Williams. Noes: None. Abstain: None. Absent: Nuaimi.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar, which Chairman Biane states consists of: (1) approval of the Executive Officer's expense report; and (2) approval of payments as reconciled for the month of March 2005 and noting cash receipts. A Travel Claim and Visa Justification for the Executive Officer's expense report, and a staff report for the reconciled payments, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. Staff

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recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled for the month of March and note the cash receipts.

Chairman Biane asks whether there is anyone present wishing to discuss the consent calendar items. There is no one.

Commissioner Colven moves approval of the consent calendar, seconded by Commissioner Cox. Chairman Biane calls for objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson, Williams. Noes: None. Abstain: None. Absent: Nuaimi.

CONTINUED ITEMS

CONTINUED FROM JANUARY 19, 2005 -- CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2945; AND (2) LAFCO 2945 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA SL-1 - CONTINUE TO MAY 18, 2005

LAFCO conducts a continued public hearing to consider a service review and sphere of influence update for County Service Area SL-1 (CSA SL-1). This hearing is continued from January 19, 2005, and notice of the original hearing date of November 17, 2004, was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County department, and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald states that the staff recommendation is that the Commission continue this hearing to May 18, 2005, as staff is not yet ready to present all the information related to this item.

Chairman Biane asks if there is anyone wishing to speak on this item. There is no one.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Biane calls for objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson, Williams. Noes: None. Abstain: None. Absent: Nuaimi.

CONTINUED FROM JANUARY 19, 2005 -- CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT AND ADDENDUM TO FINAL ENVIRONMENTAL IMPACT REPORT (FOR FONTANA DEVELOPMENT CODE UPDATE) ADOPTED BY CITY OF FONTANA FOR FONTANA GENERAL PLAN UPDATE (STATE CLEARINGHOUSE NO. 2003031083), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2968; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; (3) ADOPTION OF ADDENDUM TO FINAL ENVIRONMENTAL IMPACT REPORT TO ADDRESS DISSOLUTION OF COUNTY SERVICE AREA 70 IMPROVEMENT ZONE P-9 (STREETLIGHTS, LANDSCAPE MAINTENANCE AND PARK AND RECREATION); AND (4) LAFCO 2968 - REORGANIZATION TO INCLUDE CITY OF FONTANA ANNEXATION NO. 161 AND DISSOLUTION OF COUNTY SERVICE AREA 70 IMPROVEMENT ZONE P-9 - APPROVE STAFF RECOMMENDATION

Chairman Biane announces that he is recusing himself from this hearing and turns the Chair over to Vice Chairman Colven. He and Legal Counsel Clark Alsop leave the hearing. Executive Officer Kathleen Rollings-McDonald states that Mr. Alsop also has a conflict on this item as he is the City Attorney for the City of Fontana. She says the Commission is now represented by Special Legal Counsel Jeffrey Goldfarb.

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LAFCO conducts a hearing to consider an application submitted by the City of Fontana (hereafter "the City") in August 2004, to annex approximately 92 acres generally located along the south side of Foothill Blvd., extending from East Avenue at the City of Rancho Cucamonga City limits to Cherry Avenue on the east. This hearing is continued from January 19, 2005. Notice of this hearing has been advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald explains that this proposal, is a reorganization due to the two separate areas proposed for annexation and she outlines the boundaries of Area 1 and Area 2 as shown on the map on the overhead display. She also shows photos of the area. She says the City's three reasons for submitting this application are outlined in the staff report. Ms. McDonald says that as staff began reviewing the application, it was determined that it would need to be expanded to include the dissolution of Improvement Zone P-9 of County Service Area 70 (hereafter "CSA 70 P-9"). She explains that CSA 70 P-9 was formed in 1995 to provide streetlighting and park and recreation services to maintain the landscaped entrance to Tract 15581 and the pocket park that was created as a condition of approval for the tract. She shows a tract map of the area that has 25 developed lots and says the pocket park is located on Lot A. She notes that a \$394 per year per parcel assessment was imposed to support the services of CSA 70 P-9. She reports that residents in the area approached their County Supervisor and requested that the park be removed because of illicit late night activities that take place there. She discusses that the County attempted to remove the park but says that since it was a condition of approval for the development of the tract, it was a daunting task because all residential development rights for the park had been transferred to the remaining 25 lots within the development. She reports that staff worked with County Counsel, the Special Districts Department, the City, and Special Legal Counsel to develop a means to relinquish the park through the County and transfer it unencumbered to the City for its use in the future. She notes that the dissolution of CSA 70 P-9 will transfer all of its responsibilities to the City.

Ms. McDonald discusses the boundaries and says this proposal represents a logical service extension for the City. She discusses the several categories of land uses in the area, which are outlined in the staff report, noting that they were developed through the City's pre-zoning of its sphere of influence and General Plan update. She says there are no issues with the land uses as presented. She points out that no change can be made to the General Plan or zoning designations of the area for two years following completion of this annexation unless the City Council indicates that there is a substantial change in circumstances.

Ms. McDonald discusses the service issues, as outlined in the staff report. She says staff believes it is appropriate to dissolve CSA 70 P-9 and transfer its responsibilities to the City, noting that the \$394 per year per parcel special assessment will be removed. She says the City has indicated it can continue to provide service to the area as outlined in its Plan for Service. She says residential development is allowed under the City's land use designations and the other parcels in the CSA 70 P-9 area will be grandfathered in as legal non-conforming uses. She says the staff report lists the service providers and those that will change, as well as those that will not change.

Ms. McDonald discusses that the Commission is using the City's Final Environmental Impact Report (FEIR) prepared for its General Plan Update and an Addendum to the FEIR (for the Fontana Development Code Update) which addressed the pre-zoning of its sphere, which documents were previously presented to the Commission. She introduces Shay Lawrey of Tom Dodson & Associates, the Commission's Environmental Consultant, who is present today in Mr. Dodson's absence, and says Mr. Dodson has indicated that the City's environmental assessment is adequate for the Commission's use as a responsible agency. She reports that Mr. Dodson prepared an Addendum to the FEIR to address the dissolution of CSA 70 P-9, a copy of which is attached to the staff report, which outlines that the dissolution will have no significant effect on the environment.

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Ms. McDonald says that staff supports the City's request. She says the staff recommendation is listed on pages one through three of the staff report and includes that the Commission: (1) take the listed actions related to the environmental review; (2) expand the proposal to include the dissolution of CSA 70 P-9, subject to the listed conditions; (3) approve the modified proposal; and (4) adopt LAFCO Resolution No. 2869 reflecting the Commission's findings, determinations and conditions for the proposal.

Vice Chairman Colven opens the public hearing and calls on those wishing to speak.

Cecilia Lopez-Henderson, Annexation Program Coordinator for the City, states that the Foothill Blvd. area is the second gateway to the City and that approval of staff recommendation will enable the City to begin improving Foothill Blvd. Ms. Henderson says the purpose of the proposal is to: (1) provide services such as street improvements, traffic control and zoning consistency along Foothill Blvd.; (2) install street improvements such as traffic signals, streetlighting, widening of Foothill Blvd., a landscaped center median, curbs, gutters and sidewalks, and to install a sewer line on the south side of Foothill Blvd.; and (3) help square off the boundaries on the south side of Foothill Blvd. and reduce confusion between the City/County boundary. She says the City supports staff recommendation in its entirety and urges approval of the proposal today. She says other City staff are present if there are specific questions.

Vice Chairman Colven asks what was received as far as landowner opposition. Ms. Henderson responds that over 4,000 notices to landowners and registered voters within and surrounding the area were sent by LAFCO. She reports that she received five calls—two in support and the others from people just outside the area who were interested in being included in the annexation proposal.

Commissioner Pearson asks about the alignment of the new 210 Freeway compared to this property. Ms. Henderson asks the Project Engineer Frank Smith to respond. Mr. Smith says the 210 Freeway is parallel with, and about 1 ½ miles north of, Foothill Blvd.

Commissioner Curatalo asks whether annexation will allow the City Council to do whatever it wants with the park, considering the development agreement that is in place. Ms. Henderson responds that the Board of Supervisors took an action to abandon the park on March 15, 2005. She reports that upon annexation, the park will no longer be a park but will be sold to be developed with single-family residences.

Joseph Carl Cuccia, who lives with his mother LaVerne Cuccia on Cherry Avenue within the annexation area, speaks in opposition. He says his elderly mother, who is on social security, will lose her property if she has to pay City taxes and comply with the regulations of the City's municipal code. Mr. Cuccia says he has lived in this area for over 50 years and says it had been very peaceful, with only minor incidents of crime, until the City got a foothold into the area. He discusses that the area has now become a major crime zone and says people are afraid for the children to play in parks because they are afraid they will be shot. He says he worked with the City Police as a volunteer and says some of the stories he has heard about crimes on City properties are nightmares. He says he is strongly opposed to the City coming anywhere into the area.

LaVerne Cuccia speaks in opposition, stating that she owns three acres in the annexation area. Mrs. Cuccia says the City has been trying to annex the area because of the Fontana Speedway that is down at the end of her street. She says she cannot afford the City's taxes and fees on the \$600 a month social security she receives. She says she wants to stay in the County where she can live peacefully as she has for the last 52 years and does not want to be forced to move since all her children live around her.

Mike Cuccia, who also lives with his mother on Cherry Avenue, speaks in opposition. He says his mother and a number of other people in that area cannot afford to be in the City and to put that type of burden on them is not fair. He says that until a couple of years, they basically had no crime in this area. He says the City cannot handle the area it has now and reports that the response time for a minor crime is an average of two hours. He says the park is a joke and is in disrepair because it has not been taken care

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of. He says this annexation will cause an extra financial burden on everyone in the area and on the City, which is already over burdened.

Vice Chairman Colven asks that someone from the City address the comments made by the speakers related to the costs and fees associated with annexation.

Ms. Henderson states that the Cuccia family will see no change in their property tax rate upon annexation. She reports that the City's utility user tax for residential areas expired in June of last year and says the Cuccias are in an area zoned residential, so there will be no impact to the utility usage in their home. She notes that the utility user tax for commercial/industrial properties expires in 2009.

Commissioner Williams comments that last month it was discussed that City representatives would be meeting with homeowners in annexation areas to address their concerns. She asks whether this has been done. Ms. Henderson responds that this annexation process started last year and had its first public hearing before the Planning Commission. She says a street improvement project meeting was held for the annexation area as well as for the Foothill Blvd. street improvement area. She says that meeting was held at a school and that notices were sent to the Cuccias and the people living in the impacted and surrounding areas. She says annexation, pre-zoning and the Foothill Blvd. street improvement project were addressed. Commissioner Williams says the Commission was told that the City would be going to the homes of people and letting them know what the impacts of annexation will be, such as whether there would be any tax increases and possibly discussing the issue of grandfathering in the uses on their property, especially regarding animals. She asks if that has been done. Ms. Henderson responds that she believes the discussion Commissioner Williams is referring to related to the island annexation policy discussed at the March 16 Commission hearing. She says this is not an island annexation and reiterates that when the process started, notification was sent out, including a handout about the impacts annexation will have on property and what the proposed zoning would be under the City's General Plan. Regarding the island annexations, she says the City will be surveying the areas and providing information to educate the public regarding the impacts of annexation. Commissioner Williams says she is still concerned that the City has not made the effort to address the properties involved so that people's concerns could be put to rest. She says it would be simple to do and says the City will benefit by making good neighbors of the people, especially regarding code compliance issues.

Commissioner Pearson asks whether any property owners in this area are receiving service through out-of-agency service contracts. Ms. Henderson reports that there are three property owners with irrevocable agreements to annex. She points out that upon annexation, their sewer bills will be decreased and the agreements will become null and void. Commissioner Cox asks whether it is correct that none of the parcels in this area will experience any increase in taxes and Ms. Henderson indicates that is correct. Commissioner Cox comments that the challenge with annexing County property is the code enforcement issues and she asks whether there will be any change in code regulations that govern these more rural properties upon annexation. Ms. Henderson states that Debbie Brazill, Deputy City Manager, can provide that information.

Ms. Brazill states that she does not know how the City's code requirements differ from the County's, but she states that the legal uses will be automatically grandfathered in. She says if there are some illegal uses that are not approved by the County on these properties, the City would send out Code Enforcement to address that. Commissioner Cox says that part of the discussion last month regarding island annexations was that the Commission would prefer to see that the County areas to be annexed be at least brought up to County standards and then grandfathered in by the city at County standards, which she says are often very different than the high density, populated City standards. Ms. Brazill says the City's intent is to look at the County standards to see if there is a difference from the City standards, and she notes that often the regulations are the same as far as weeds and inoperable vehicles. She explains that if the parcels are in compliance with the County codes, that is how they will be grandfathered in. She says if the uses are illegal in the County, the City will proceed on that issue.

Commissioner Hansberger says it was indicated that upon annexation, those properties already receiving sewer service from the City will see a reduction in their charges; and he asks why they are paying more

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than properties in the City. Ms. Henderson responds that the Municipal Code indicates that the charge for out-of-agency services to areas that are not within the City is one and one-half times the charge for properties within the City. Commissioner Hansberger says his understanding of State law is that an entity cannot charge more for service than its cost for providing that service, otherwise it is a tax and an election must be held to approve it. Discussion follows, and Ms. Henderson says that if the Commission would like, the City can provide a written response regarding this issue. Chairman Colven asks that the City provide a response. Ms. McDonald points out that regarding the out-of-agency service contracts, premium rates are charged because the participants do not pay into the property tax revenues of the City, which could be used to offset the services. She says this higher charge applies to most of the Cities for which these agreements are reviewed and says a future discussion of this issue can be held.

(It is noted that Commissioners Gonzales and Nuaimi arrive at 9:45 a.m.)

Commissioner Curatalo asks whether the City has a response to the crime statistics in the park area mentioned by previous speakers. Ms. Henderson responds that according to the City's Plan for Service, the City can provide services to the area and there is an adequate number of officers on the Police force. She says the purpose of abandoning the park was to do away with the problems the residents brought up to Supervisor Biane's office.

Joseph Cuccia speaks again and says the park is not the only crime aspect in that area. He says that Heritage Village, which is next to the annexation area, is the biggest crime zone next to Southridge Village. He says the City Police cannot control crime in Heritage and Southridge Villages; that they are short of officers and always have been, yet they want to annex more. He says he worked citizens' patrol in Heritage Village and has talked to many residents there who are afraid to let their children go to the park for fear they might be shot. He says wherever the City gets in, crime escalates. He says he is happy with the service received from the County Sheriff.

A resident who lives on Buena Vista in the County area, says she has lived in this area for five years and the first letter she has ever received regarding annexation was the letter from LAFCO. She says she agrees with the previous speaker that crime is rising in the area and says the City has not indicated specifically what it will do to deal with crime issues. She says she will not support annexation until the issue of crime is addressed.

Robert Gibbs, who owns property throughout the Foothill Corridor, says he also owns property within the City and says that in his experience, the City Police are quicker to respond to calls than the Sheriff. He says that with the improvements the City is putting into Foothill Blvd., there will hopefully be better property values, traffic circulation and planning so he supports annexation.

Vice Chairman Colven calls for further speakers. There being none, he closes the hearing.

Commissioner Nuaimi apologizes for arriving late, stating he was attending a Stater Bros. grand opening in Fontana. He says he lived in the Village of Heritage for ten years; that he has family and friends that still live there and his church is located in there; and he says crime is not rampant in Fontana. He reports that Fontana's crime rates are on par with the City of Rancho Cucamonga and says Fontana has one of the safest, lowest crime rates in the Inland Empire for cities with a population of over 100,000. He says the City just budgeted for 13 additional Police Officers and is moving forward with plans to improve the south side of Foothill Blvd. through this annexation. He says he is troubled to hear comments portraying a community that does not match the community he knows and says he wanted to put at ease the minds of those Commissioners who are not familiar with the area.

Commissioner Gonzales also apologizes for being late, stating she was at the same ribbon-cutting with Commissioner Nuaimi. She says that as a former Councilwoman for the City for six years, she is familiar with the responsibility the Fontana Police Department feels towards the City, as well as County residents. She says she is also familiar with the area being discussed which is in close proximity to adult bookstores and adult entertainment situations which she says have had a tendency to undermine the quality of life in the area. She says efforts are taking place to change that and says if residents are unhappy with what is

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going on, they should voice their opinion at the Fontana City Council meetings. She says there is no reason she would support the type of environment that has been described today and asks that people contact her if that continues to happen, so that they can be provided with the quality of life they deserve.

Commissioner Cox moves approval of staff recommendation, seconded by Commissioner Nuaimi. Vice Chairman Colven asks if there are any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Gonzales, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: Biane (Gonzales voting in his stead). Absent: None.

(It is noted that Chairman Biane and Legal Counsel Clark Alsop return to the hearing.)

DISCUSSION ITEMS

PRELIMINARY REVIEW OF BUDGET MATTERS FOR FISCAL YEAR 2005-2006 - REVIEW OF PROPOSED FEE SCHEDULE - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing for the preliminary review of the proposed Schedule of Fees and Charges for Fiscal Year 2005-06. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, all cities and independent special districts, the County, and those agencies and individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says that staff is presenting modifications to each category to accommodate an increase from \$250 to \$450 charged by the County Surveyor for the review of maps and legal descriptions and a \$50 increase for increasing publication costs. She summarizes the proposed changes as outlined on the overhead display, noting that a new fee category for a deposit for island annexations has been included. She says the deposit for a totally surrounded island will be \$750 and explains that the deposit for a substantially surrounded island will be \$1,500 since the County Surveyor will review the map and legal to determine the percentage by which the island is surrounded.

Ms. McDonald says the staff recommendation is that the Commission: (1) review the preliminary Fee Schedule and provide staff with direction on changes or amendments; (2) direct staff to forward the Fee Schedule to the County, all cities and independent special districts for their review and comment; and (3) schedule the final review and adoption of the Schedule of Fees and Charges for the May 18, 2005 hearing.

Chairman Biane states he has no requests to speak and closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Biane calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

PRELIMINARY REVIEW OF BUDGET MATTERS FOR FISCAL YEAR 2005-2006 - REVIEW OF PROPOSED BUDGET - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing for the preliminary review of the Proposed Budget for Fiscal Year 2005-06. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, all cities and independent special districts, the County, and those agencies and individuals requesting mailed notice.

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Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says that in preparing the budget, staff was cognizant of the Commission's impact on the budgets of the entities that fund it and tried to hold costs down where possible. As outlined in the staff report, she reviews the Expense categories and says the Salaries and Benefits category accommodates the payment of costs for five full-time employees (which includes the new LAFCO Analyst for which recruitment is now taking place); a 2.5% cost-of-living increase for all employees, funding for a cell phone allowance for the Executive Officer rather than the purchase of a cell phone through the County; and the increase in retirement contributions.

Ms. McDonald discusses the Services and Supplies category which she says addresses the purchase of new computer equipment for the staff office, including five new workstations and a new printer. She says Legal Counsel Clark Alsop has requested an amendment to his contract to allow for an annual cost-of-living increase based on the Consumer Price Index for the area, not to exceed 5% in any given year. She says staff is requesting authorization for the Executive Officer to sign the Production Support Agreement with the County's Information Services Department to allow for the continuation of the website production and contracting with the GIMS Division for maintenance of the digitized maps. She reports that staff is proposing to change the Commission's Auditing Firm and says that staff, along with the Orange and Riverside LAFCOs participated in a joint Request for Proposal and selected Moreland and Associates Inc., at a \$180 reduction from the current County charge. She also notes that COWCAP charges went down to reflect a refund of about \$16,000 received for corrections to the prior years' charges.

Ms. McDonald discusses the Revenue categories, as outlined in the staff report, and notes that the current year revenues will exceed budget targets by about \$130,000. She says the escalating activity level is not abating and discusses a graph on the overhead display, a copy of which is also attached to the staff report, which shows the number of proposals reviewed through the years. She notes that two more proposals have been received since the preparation of this graph, bringing the total to date to 23. She says the Commission's costs have also escalated and says staff is projecting the cost to be apportioned for the next fiscal year, which will be divided equally among the County, cities and independent special districts, to be \$545,000, which is an \$80,000 increase over the prior year. She points out, however, that next year's charge is still less than what was charged to the County years ago, and says the activity levels are much higher today. She says the increase in cost is due to the need for the increase in staffing so that application processing does not slow down. She says the staff report includes an estimated breakdown of the charges to the districts and the cities, noting that if the State Controller issues new reports between the adoption of the Budget and July 1, the charges may shift and the total cost may go down if the carryover is much larger. She discusses that the revenue calculations include an anticipated reduced fee for the County Fire Reorganization, since the County staff has indicated they will request a reduction from the estimated fee of \$95,250 down to approximately \$56,250.

Ms. McDonald says the staff recommendation is listed on pages one and two of the staff report and includes that the adopted Proposed Budget be forwarded to all independent special districts, all cities, and the County for comment and that May 18, 2005 be scheduled for the formal adoption of the Final Budget.

Commissioner Colven asks if Legal Counsel could request a further amendment to his contract if the Consumer Price Index rises. Ms. McDonald says he could request that, noting that there has been no adjustment in Mr. Alsop's per hour charge in about six years.

Chairman Biane states he has no requests to speak and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

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CONSIDERATION OF: (1) REVIEW OF ENVIRONMENTAL ASSESSMENT REPORT (EAR) NO. 1410 (NEGATIVE DECLARATION FOR PREZONE CHANGE PZC 02-02, STATE CLEARINGHOUSE NO. 2003021122) AND ADDENDUM #2 TO EAR NO. 1410 PREPARED BY CITY OF UPLAND FOR PROPOSED ANNEXATION OF 193.30+/- ACRES OF THE 343-ACRE COLLEGE HEIGHTS AREA, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2978; AND (2) LAFCO 2978 - CITY OF UPLAND ANNEXATION NO. 60 - APPROVE AS SUBMITTED BY CITY

LAFCO conducts a public hearing to consider a proposal initiated by the Upland City Council to annex approximately 193 acres in the western-most edge of the larger island area commonly known as "College Heights". The area is generally bordered by Foothill Blvd. on the north (existing City of Upland boundary), a combination of Central Avenue and parcel boundaries on the east, Arrow Route on the south (existing City of Upland boundary) and the Los Angeles County line on the west. Notice of this hearing was advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made part of the record by reference herein. Ms. McDonald shows the boundaries of the area on the map on the overhead display. She points out parcels that are owned by the Claremont Colleges, Chino Basin Water Conservation District (hereafter "CBWCD"), San Bernardino County Flood Control District ("FCD") and the Monte Vista Water District. She also points out the private lands which are located generally along Foothill Blvd. and in the general area along Central Avenue.

Ms. McDonald discusses boundary issues, stating that the north, west and south boundaries are clean, utilizing street centerlines or the County line. However, she says the eastern boundary utilizes a combination of the centerline of Central Avenue and parcel boundaries from 11th Street south to the City's existing boundary, creating a notch of unincorporated territory west of Central Avenue. She explains that this boundary excludes residents and/or landowners who have historically opposed annexation attempts by the City of Upland (hereafter "City") but who are currently receiving City water, and two who receive City sewer services. She says the staff report outlines three options for the Commission to address this exclusion. She says the first option is to expand the proposal to include the additional eight parcels from 11th Street south to the existing City boundaries. She discusses that although such an expansion would only include one additional registered voter, maintaining the area as legally uninhabited, it would reduce the landowner support below the 50% threshold. She says the City opposes this modification. Ms. McDonald says the second option is to delete the parcels immediately west of Central Avenue, from 11th Street north to Foothill Blvd. She says the City has indicated that if any modification is to be approved, it would support the deletion of those parcels. Ms. McDonald says the third option is to accept the proposal as presented, with the understanding that the City has indicated that it will initiate additional annexations for the balance of the College Heights area. She says staff could support that because the City provides all the water service in the overall College Heights area and sewer service by out-of-agency service contracts to many facilities in the area. She says this is the option the City supports and the City requests that the Commission approve its application as presented.

Ms. McDonald discusses the land use issues, which are outlined in the staff report. She says the only land use concerns relate to the transition of the CBWCD flood control lands currently designated Resource Conservation to the light industrial/commercial uses of the City. However, she says the CBWCD has declared those lands surplus and is entertaining bids for the sale of the property and transfer of their ownership.

Ms. McDonald highlights the service issues, which are outlined in the staff report. She notes that the County Fire Agency has indicated it has no opposition to this proposal, contrary to its past position, on the basis that the intent of the Fire Reorganization is to address the overall fire revenue issues. She says the City has conducted the environmental assessment for this annexation through the College Heights pre-zoning and through its Addendum No. 2 which was prepared for this specific annexation. She reports

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that the Commission's Environmental Consultant Tom Dodson & Associates has reviewed these documents and indicated that they are adequate for the Commission's use as a responsible agency.

Ms. McDonald states that the first recommendation listed on page one of the staff report is staff's preference that the Commission modify or expand this proposal to address staff's concern about the boundary configuration on the eastern edge of the area and continue the consideration to the May 18 hearing to allow for gathering modified information, advertising the modification, and presentation of a draft resolution. However, she says if the Commission wishes to approve the proposal as presented, it can take the listed actions with respect to the environmental review, approve LAFCO 2978, subject to the standard conditions of approval, and continue adoption of the resolution setting forth the Commission's terms, conditions, findings and determinations to the May 18 hearing as a consent item.

Commissioner Hansberger asks whether tax revenues are generated from the parcels owned by the Claremont Colleges, the FCD and the CBWCD. Ms. McDonald responds that the Claremont Colleges property is taxable since, as a private university, it is not considered a public entity; and she reports its land values are in excess of \$1 million. She says there are revenues attributable to this area and that a share is established through the property tax transfer process. She notes that if the CBWCD lands are sold and returned as private lands to the tax roll, that share will apply to those lands as well.

Commissioner Hansberger comments that the area to be annexed does not require a great deal of service at this moment. He says his concern is with annexing that area and converting it from its current use to uses that produce revenue, while leaving the rest of the island to be served by the County. He says the County's revenue is adversely impacted, but its service requirements will remain the same or be greater. He asks why the City does not annex the entire peninsula at one time. Ms. McDonald explains that the City tried to annex the entire island, but she says it was defeated by voter protest in November of 2003. Commissioner Hansberger says this proposal will make it much more difficult for the County to meet the needs of the people remaining in that area. He says he has no problem with annexing the area but does have a problem with reducing the revenue for the service provider and giving the revenue to the nonservice provider. Ms. McDonald responds that the City is working to address those issues and she says City representatives are present this morning to provide additional information on their application. She reports that the City provides most of the service in this area because its facilities are closest to the area. She says the City provides mutual aid for fire protection and police services to this area.

Commissioner Hansberger notes that even if the City responds to a felony, the ultimate responsibility falls to the Sheriff, who has to serve this area from a very remote location, which is why he would like to see the entire island annexed to the City. Ms. McDonald reiterates that the City tried to annex the whole island but it was defeated by voter protest, and she says the City is pursuing further annexations, based on support. Commissioner Hansberger says he could understand if the City annexed the eastern portion of the island incrementally. But he asks how annexing the western portion that does not require service, leaving a smaller island requiring service, will solve any problems. Ms. McDonald comments that the only solution is to annex the entire area.

Commissioner Nuaimi asks whether there is a commitment from the City that it will pursue annexation of the remaining island or whether the Commission can condition that to happen. Ms. McDonald says the City will discuss that, but she says she believes that is what it intends to do. Commissioner Pearson asks how many parcels in the "notched" area have an irrevocable agreement to annex. Ms. McDonald responds that one parcel has an annexation agreement; that one receives service without an agreement; and that four parcels do not have sewer service.

Chairman Biane opens the public hearing and calls on Steve Dukett, the City's Redevelopment Director.

Mr. Dukett says that Annexation No. 59, the annexation of 25 acres in the southeast corner of the College Heights area, was completed last fall and that the City indicated it would pursue further annexations in the larger island area. He says he has been directed by the City Council to approach annexations one at a time with respect to the laws that govern annexations and whether they deal with a registered voter or landowner process. He says that since the City tried to annex the whole island two years ago and it was defeated by voter protest, the City decided to use a landowner approach to annexation. Mr. Dukett discusses that the City cares about this island because the area is at the west end of the City and is a

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gateway along Foothill Blvd. from Los Angeles County, from the City of Claremont; it is a significant area in the west end of San Bernardino County because it is in the center of the shortest points of connection between the Foothill and San Bernardino Freeways; and that the opportunities for development in a positive way are great. He says the City met with LAFCO staff last summer and was advised how the boundary for annexation could be designed and says the City Council initiated the application on October, 2004. He says City staff attended the Departmental Review Committee meeting and received no negative comments from LAFCO staff about the proposed boundary being improperly designed. He reports that the City held a community meeting and gave a comprehensive presentation about what annexation means and talked about one of its major goals in this area, which is to provide significant backbone infrastructure investments in the entire island. He discusses improvements the City has been making in the Upland Basin. He says they have been talking with property owners about how to proceed with the development of infrastructure and says the City proposes the establishment of one or more community facilities districts.

Mr. Dukett says that of the three options presented by staff, the third option is the only one the City can wholeheartedly recommend. He says the other two options will delay this annexation and the City will be unable to consider further annexations in this area until this one is completed. He says if the proposal is approved today as presented by the City, he will present to the City Council in July the options related to annexing the balance of the island. He requests that the Commission not approve option one, which he says will add territory to the proposal and require significant delays in the process. He says the City does not support option two, which would reduce the area, but he says the City would not object to it. He points out, however, that option two would also delay the process and he says the City and major property owners in the area want to pursue development options. He adds that the City heard at the community meetings for Annexations Nos. 59 and 60 that the people are interested in receiving a higher level of public safety services and he says the City can provide a much higher level of service for no additional cost.

Chairman Biane states that he represents this area and has worked closely with the City Council and Mayor who are committed to eliminate this island. He says the fear of leaving an island that will not ultimately be annexed is unfounded with the policy changes adopted by the Commission a few weeks ago. Regarding law enforcement services, he discusses that ultimately, with the annexation of island areas, there may not be any need for the Sheriff to operate a station for unincorporated areas in the west Inland Empire. He says he has talked to the Sheriff's Department about the activities of the Chino Hills Station that provides services to this area now and says the Sheriff's Department supports annexation. He points out that the area of the unincorporated island that remains will also benefit from this annexation due to the larger presence of the Upland Police in the area. He states that Station 12 in San Antonio Heights, which provides fire services to this area, is down to about 100 calls a year and he says it is crazy for the County to keep that station open at that call volume. He says there is dialogue between the City and County Fire to ultimately contract for services in those areas. Chairman Biane states that he recommends approval of the third option to approve the proposal as presented.

Commissioner Nuaimi comments that by expanding the proposal to include the eight additional parcels, the City will fall below the 50% support based on land values. He asks whether the property valuation for the one parcel for which there is an annexation agreement was included in the analysis as being in support of annexation. Mr. Dukett states that only those parcels included in the City's proposal were included in the analysis. He points out that the City looked at annexing as large an area as possible to be responsive to landowners who wanted to be annexed, but says they also carefully looked at the voter factor. Commissioner Pearson inquires as to the location of the one property for which there is an irrevocable agreement to annex. Mr. Dukett points out the location of the parcel on the overhead display map. Ms. McDonald notes that the City's contracts are sewer contracts, which are different than irrevocable agreements to annex.

Chairman Biane asks if there is anyone else wishing to speak on this item.

Ralph Ayala Jr., who owns three parcels in the annexation area, speaks in opposition. Mr. Ayala states that the voters spoke at the November 3rd election and he says it was clear that the property owners and

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taxpayers were opposed to annexation of the island. He says now the City is proposing this as an uninhabited annexation, which he says is a legal process but one which seems to be undemocratic. He says that several property owners opposed annexation at the community meeting but felt they were being railroaded by the City. He says he sees no benefit to being part of the City; that he has no complaints about the services he receives; and that, as the owner of parcels in the City and in the County, he knows that it is more difficult to do something in the City limits.

Commissioner Nuaimi asks if Mr. Ayala's property is undeveloped. Mr. Ayala responds that it is at the present time, but says he is considering developing it in the future. In response to Commissioner Cox, Mr. Ayala points out the location of his parcels on the map and says that everything up to his property is developed. He says the City sounds good on the record saying it will pursue annexation of the balance of the island, but he says that will be difficult unless there is a loophole that will allow the City to do so, since the owners in the remaining area are also opposed to annexation, which he says is why they were excluded from this annexation.

David Wright, the co-owner of property on the corner of Monte Vista Avenue and Foothill Blvd., states that about half of the land in the annexation area has buildings on it, although the pictures indicated that most of the land is vacant. Mr. Wright says he is not necessarily against the annexation of his property, but is against the means by which it was brought about. He says the island annexation was "shot down" once before but the City found a loophole and gerrymandered the boundary line around some apartment buildings with voters so that the proposal could be declared an uninhabited annexation. He discusses that the properties that are not on the tax rolls were assessed to exceed the property values of the combined parcels on the current tax roll, and says the properties on the tax roll are under taxed per value. He says that since those public properties were given superior weighted values, it was a "slam dunk" for those property owners with more than 50% of the land value and there was no way for the other property owners to protest. Mr. Wright says they have no services to speak of, pointing out that Fire Station No. 12 has a 40 minute response time to his property and that the Los Angeles Sheriff has about a one hour and 40 minute response time to his property. He says that when there are collisions at the intersection, the question is asked which way are the headlights pointed since the north side of the street is City and the south side is County. He says he objects to the illegal billboards on the south side of the street that are not permitted, but have been left standing, and says that on the north side of the street in the City is an adult bookstore that would not be allowed in the County. He says there is a backdoor deal pending on the surplus land of the CBWCD and he believes that is the impetus for this annexation because the City will then have the overview and receive taxes from that area.

Commissioner Hansberger asks if this application can be conditioned on a future action and Ms. McDonald says it can. He states that he thinks the third option would be appropriate, with a condition that the City file an application to annex the balance of the area within a certain period of time. He says that although the City has indicated it would do that, he thinks it is the Commission's duty to put that condition on this annexation and he makes that motion. Ms. McDonald explains that if this annexation is approved with that condition, the completion of this annexation will be held until the City initiates annexation of the balance of the island by resolution. Commissioner Hansberger asks if there is another remedy without placing a condition on the completion of this annexation. Ms. McDonald points out that the Commission accepted a commitment from the City of Chino to return with the annexation of a totally surrounded island within six months. She reports that cities have made good on those commitments.

Commissioner Hansberger says he does not want to hold up this annexation and can accept a commitment from the City. He makes a substitute motion to approve staff recommendation, with the request that the City commit to filing an application to annex the balance of the island area within six months. Ms. McDonald points out that there is no draft resolution attached to the staff report because one of the staff recommendations is to continue adoption of the resolution of approval to the May 18 hearing. She says that since the City does not want to see any delay in processing this annexation, the Commission can change that recommendation and direct staff to prepare and issue the appropriate resolution reflecting the Commission's actions. Legal Counsel Clark Alsop states there is nothing wrong with doing what Ms. McDonald is suggesting and says that had been the policy for many years until it was changed a few years ago. Commissioner Hansberger agrees to that amendment and the motion is

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seconded by Chairman Biane. Commissioner Hansberger says he would like to hear from the City that it will make the commitment discussed. Mr. Dukett says he will report the action that has taken place to the City Council Monday night and he says they will be overjoyed.

Commissioner Cox asks what would have caused a slow down in the process had those eight parcels on Central Avenue been excluded. Ms. McDonald explains that there would need to be a modified map and legal description and modified assessed valuations from the Assessor, and the proposal would have to be readvertised, requiring a continuance to May, if not longer.

Commissioner Nuaimi comments that the last speaker made a great argument for annexation in pointing out that when accidents occur, the direction the headlights are pointed determines which agency responds. He says it is also noteworthy that Mr. Ayala, who spoke in opposition to annexation, is looking to develop his property. He says it is typically a little more costly to develop in cities than the county so arguments have been made which support moving this annexation forward. He says he is glad to see the City moving forward and hopefully it will come back shortly with the annexation of the balance of the island.

Chairman Biane calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF HIGHLAND FOR TENTATIVE TRACT MAP 16914 (SUB-04-001), GENERAL PLAN AMENDMENT (GPA-04-002), ZONE CHANGE (ZC-04-002), AND ANNEXATION (LAFCO-04-001), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2979; AND (2) LAFCO 2979 - REORGANIZATION TO INCLUDE ANNEXATIONS TO CITY OF HIGHLAND AND EAST VALLEY WATER DISTRICT (TENTATIVE TRACT 16914) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider an application submitted by the Highland City Council to annex approximately 47 acres to the City of Highland (hereafter "the City") and approximately 7 acres to the East Valley Water District (hereafter "the District"). The area to be annexed to the City is bordered by parcel lines on the north and east, parcel lines on the south, generally located at the terminus of San Benito Street, which is north of Greenspot Road (existing City boundaries), and parcel lines on the west, generally located east of Plunge Creek (existing City boundaries). The area to be annexed to the District is only a portion of the City's annexation boundary, since approximately 40 acres of the City's 47 acre annexation area are already in the District's boundaries. The area to be annexed to the District, which is generally the eastern portion of the City's annexation boundary, is bordered by parcel lines on the north and east, parcel lines on the south (existing District boundaries) and parcel lines on the west (existing District boundaries). Notice of this hearing has been advertised as required by law through publication in The Sun and the Highland Community News, newspapers of general circulation. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez says the proposal was submitted to consolidate the area of Tentative Tract 16914, which includes the development of 59 single-family residential units on a total of 54.3+/- acres, of which 7.51+/- acres are already within the City. He says that annexation to the District will bring the entire tract into the District. He says the area is mostly vacant land that includes a non-productive citrus and avocado groves, an abandoned irrigation system and one existing mobilehome unit. He says the area is surrounded by vacant land (National Forest) on the north and east, vacant land on the west, and single-family residences and vacant land on the south. He notes that the vacant land to the south is the portion of Tentative Tract 16914 already in the City boundaries. He discusses the County's and City's land use designations, which are outlined in the staff report. Mr. Martinez summarizes the services to be provided by the City and the District, as outlined in their

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Plans for Service attached to the staff report. He reports that sewer collection services will be available through the District and says sewer service will be extended to the 59 residential units proposed for development. He says that water service is presently available within a majority of the area by the District and says annexation to the District will provide water service to the portion of the park currently outside the District's boundaries. He says fire protection is currently provided by County Service Area 38 and will be replaced with City service provided through contract with the California Department of Forestry and Fire Services. He notes that a special paramedic tax of \$19 per household will be assessed to the residential units to be built. He says the Sheriff will continue to provide law enforcement services through its contract with the City.

Mr. Martinez reports that the Registrar of Voters has certified that the study area is legally uninhabited and that the County Assessor has determined that there is 100% landowner consent to annexation. He notes that one of the landowner consents attached to the staff report is not current and says the new landowner consent form has been provided to the Commission this morning. He reports that the City and District have consented in writing to the waiver of the protest proceeding allowed by Government Code Section 56663. Mr. Martinez says the City's environmental assessment for the annexation, pre-zoning, General Plan Amendment, Subdivision and approval of Tentative Tract Map 16914 has been reviewed by the Commission's Environmental Consultant Tom Dodson and Associates who has determined that the documents are adequate for the Commission's use as a responsible agency. He says the necessary actions to be taken are outlined on page four of the staff report.

Mr. Martinez says staff supports annexation on the basis that the proposed tract will benefit from the full range of services available through the City and the District. He says the staff recommendation is outlined on page one of the staff report and includes that the Commission: (1) take the actions listed related to the environment determination; (2) approve LAFCO 2979; (3) waive the protest proceedings with 100% landowner support and concurrence of the City and District; and (4) adopt LAFCO Resolution No. 2871 setting forth the Commission's findings, determinations and conditions of approval.

Commissioner Cox asks why the rest of the area is not also being annexed since it is within both spheres of influence. Mr. Martinez responds that it is the San Bernardino National Forest and there is no means to provide service there.

Chairman Biane opens the public hearing and calls on those wishing to speak.

Elaine Franzen, who lives close to the annexation area, states that years ago there were major fires in the National Forest in the area of this annexation. Mrs. Franzen says she believes this annexation and the building of 59 homes is extremely adverse to the environment. She says the environmental study was conducted over two years ago and that trapping for the Kangaroo Rat, an endangered species, was not adequately performed. She says her cat brings home an "endangered species" almost every day, yet the report says the Kangaroo Rat is not in the annexation area. She says the Commission should not adopt the report without asking that the City update it because of this significant change. Mrs. Franzen says 59 new units in this area will create a fire endangerment for her property as well as perspective property owners in the area. She says this area is at the base of the San Bernardino Mountains and there is only one way in and out on San Benito Street, which has a street width that not more than two cars side-by-side can fit through. She says the environmental report is also in error because it says only 60 cars per day will travel the road, but she says most of the 59 houses will have two cars and there will be kids going to school and school buses, with inadequate ingress and egress, so she says the environmental document did not adequately address this issue. She strongly suggests that the environmental document be reviewed more diligently as far as issues related to fire protection, endangered species living in the area, water and sewer collection. She asks who will pay for the sewer line, stating the cost for that will probably end up on her tax bill. Mrs. Franzen says she thinks this project is being rushed through because there is a lot of money at stake in building 59 houses at \$700,000 per house. She points out that page B-5 of the Appendix to the Environmental Analysis indicates that the biological assessment surveys were conducted on December 3, 2003, and she says things have changed in the past two and one-half years and she does not want to see an endangered species lose its habitat for a couple of homes. She requests that the City update its environmental analysis to see if the

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Kangaroo Rat is in the area. She asks that something be done prior to the annexation to show that there will be adequate ingress to and egress from the location, because she says the hills will burn again and having one road to get people safely in and out does not make sense.

Nora Taylor says she lives on Vista Rio, next to the District's facilities. Mrs. Taylor says her two concerns are the traffic on Greenspot Road and flood control and that she wants to be sure that the infrastructure keeps up with the building that is taking place. She discusses the traffic situation on Greenspot Road, stating there is no traffic light and it is a raceway on Friday and Saturday nights. She asks whether a light will be put in. She says a portion of the environmental analysis talked about liquefaction and she says an earthquake is overdue for the San Andres Fault. She says the area sits between two creeks and is concerned how those two creeks will be affected if the integrity of the existing flow continues to be decreased.

Gail Alberts states that the back of her property is right against the flood zone and she says a majority of the homes will be built behind her home. Mrs. Alberts says she has no problem with the annexation but thinks the single-family homes might have problems with rock slides.

Sam Racadio, City Manager, states that also present this morning are Larry McCallon, Mayor Pro Tem, Rick Hartmann, Community Development Director, Larry Mainez, City Planner, and Bob Martin, General Manager of the East Valley Water District. Regarding fire issues, Mr. Racadio reports that houses have been built for years up against the foothills and he says the tracts are designed so that instead of the houses backing up to the hillside, there is a perimeter road around them for protection and a greenbelt buffer between the road and the foothills. He says that is the same for this development. He points out that during the fire, the City did not lose any houses. He says the City knows that the Kangaroo Rat is in the wash area. He reports says that for this project, there was a "presence and absence" study for the rat, which was verified by Tom Dodson and Associates, and he says there is a certified Mitigated Negative Declaration on this project. He discusses that traffic studies were done and completed. He says the expense for sewer lines will be borne by the builder and not the general public. Mr. Racadio discusses that this project was not rushed, pointing out that there were various hearings before the Planning Commission and the City Council. Regarding the traffic on Greenspot Road, he says that in order to accommodate the main road that goes across San Benito Street, the City built a major bridge across Plunge Creek and analyzed the traffic implications. He says there are four lanes in each direction plus a median most of the way back to the freeway. Regarding flood control, he says the Plunge and Oak Creeks can accommodate the rains. Mr. Racadio says he believes all concerns have been addressed in numerous public hearings on the project and he asks that the Commission approve the annexation.

Commissioner Hansberger asks whether there is an emergency access to the area if there is no secondary access. Mr. Martinez responds that there is an emergency access on the west side of the area by the District's reservoir.

Bob Martin, General Manager of the District, confirms that the sewer lines will be extended at the cost of the developer. He also points out that the District does not have a tax rate and collects no property taxes.

Chairman Biane asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Curatalo asks if there are any plans to enhance the existing road that has been described as being narrow. Mr. Martinez says San Benito Road has two lanes and is wide enough, but he says it is narrowed because people park on both sides of the street. He says the traffic study in the City's environmental document indicates that the street is adequate to accommodate the 59 new units. Commissioner Curatalo asks whether the emergency road is typically locked and used only for emergencies and Mr. Martinez says that is correct.

Commissioner Nuaimi comments that the environmental analysis being dated from 2003 supports the fact that this project has not been rushed through but was started a number of years ago and has been going

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through a deliberate process. He points out that the traffic analysis says there will be an average of 565 daily trips generated from the 59 units, which he says is consistent with typical trip generation. He comments that he would not know if a dead rat was a Kangaroo Rat unless he looked at its knuckles.

Commissioner Nuaimi moves approval of staff recommendation, seconded by Commissioner Cox.

In answer to inquiry of Commissioner Gonzales, Mr. Martinez clarifies that the intersection discussed earlier where there is only a stop sign is at San Benito Street and Greenspot Road. He says he does not know what the City's plan is for providing a traffic signal at that intersection. Commissioner Gonzales asks whether the proposed project will impact the traffic at the intersection further north that was discussed by Mrs. Taylor. Mr. Martinez responds that the impact in terms of access from the proposed development is not significant.

Chairman Biane calls for objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF MONTCLAIR FOR CASE NO. 2004-22, ANNEXATION NO. 25, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2980; AND (2) LAFCO 2980 - REORGANIZATION TO INCLUDE CITY OF MONTCLAIR ANNEXATION NO. 25 AND DETACHMENT FROM MONTE VISTA FIRE PROTECTION DISTRICT (TENTATIVE TRACT 16960) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal initiated by City Council resolution to annex approximately eight acres to the City of Montclair (hereafter "the City"), with concurrent detachment of the area from the Monte Vista Fire Protection District. The area is generally located north of parcel lines (approximately 310 feet north of Phillips Blvd.), west of Central Avenue, south of parcel boundaries and east of Fremont Avenue. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

Chairman Biane comments that some of the Commissioners need to be at SANBAG at noon. Ms. McDonald says staff can indicate that the staff report has been presented, including the recommendation for approval; answer any questions Commissioners may have; and then Chairman Biane can open the public hearing. Chairman Biane states that the staff recommendation is for approval of the annexation and he asks if there are any questions of staff. There are none and he opens the hearing.

Aleene Brutsche, who lives on Phillips Blvd., says she would like to hear the staff presentation. Ms. McDonald indicates that the presentation would be a reflection of the staff report that was presented to the Commission. She says the staff recommendation is that the Commission take the necessary environmental actions, approve LAFCO 2980 and adopt LAFCO Resolution No. 2872 setting forth the Commissions findings, determinations and conditions of approval. She says Mrs. Brutsche can be provided with a copy of the map of the annexation area. Mrs. Brutsche says she has no issues with this annexation, as long as it is processed as it has been presented today. She says she is representing a neighborhood of 12 landowners and says the annexation as presented today is a settlement that was agreed to between the landowners and the City. She notes that the staff report included documents for the larger annexation and she wants to be sure that is not the annexation that is going to be approved today.

LAFCO Analyst Samuel Martinez states that Mrs. Brutsche is referring to the environmental documents prepared by the City that addressed the entire area down to Phillips Blvd. He explains that due to protest from the residents on Phillips Blvd., the City Council pre-zoned and initiated the annexation of the smaller area being considered today.

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Steve Lustro, City Planner, states that the City originally analyzed the entire area of approximately 17.39 acres, going all the way down to Phillips Blvd. He reports that during the pre-zoning process, Mrs. Brutsche and several of her neighbors expressed opposition to the City Council to being annexed. He says the City determined that the opposition would be sufficient to defeat the whole process. He says the primary purpose of the annexation as presented today is to facilitate the development of a 25 unit subdivision on the 4.7 acre parcel located on the right side of the annexation area, adjacent to Central Avenue. Mr. Lustro says he appreciates staff's work on this application and asks that the Commission approve the proposal.

Chairman Biane states he has no other speaker slips and he closes the hearing.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Hansberger. Chairman Biane calls for objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

PENDING LEGISLATION

A written pending legislation report has been presented to the Commission, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that a written Executive Officer's report has been provided to the Commission this morning. She says it includes an attachment of the proposed Island Annexation Policy No. 29. She says it has been provided for Commission review for confirmation that it is an accurate reflection of the action approved at the Workshop on March 31. She says the proposed policy has been reviewed with Legal Counsel and Chairman Biane. She asks that comments, if any, be directed to her as soon as possible.

COMMISSIONER COMMENTS

No comments are presented.

COMMENTS FROM THE PUBLIC

Chairman Biane calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED ON MOTION OF COMMISSIONER COLVEN, SECONDED BY COMMISSIONER
NUAIMI, AT 11:55 A.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

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LOCAL AGENCY FORMATION COMMISSION

PAUL BIANE, Chairman